Tasers’ role in deaths in police custody controversial

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The American-Statesman has spent the past six months investigating how Texans have died while under restraint in police custody. According to the newspaper’s examination, more than 280 people died in the state under such circumstances from 2005 through 2016. The paper filed dozens of open records requests with agencies across the state in an effort to obtain police reports and after-incident internal investigations. The series continues through May. View the project website at apps.statesman.com/question-of-restraint.

ONLINE

- Watch a video on Taser training for police officers with this story at mystatesman.com.

- Watch video of a continuous Taser shock as a Burnet County man lies still on the ground, at mystatesman.com.
The Rockdale police summary of how Rosendo Gaytan died on Halloween night 2006 during his arrest for public intoxication is clinical and brief: “While in the booking area of the Milam County Jail the subject continued to be uncompliant and assaultive. Taser was utilized in an attempt to gain subject’s compliance. While subject was being restrained he became unresponsive.” Gaytan, 52, was flown to Austin in a coma, according to police and medical reports. He died four days later. An investigation by the Texas Rangers, completed three months after his death, contained a much more detailed — and troubling — narrative of Gaytan’s final minutes. Gaytan had dozens of Taser marks on his back. More dotted other parts of his body. A civilian witness interviewed by the Rangers said he saw police shock Gaytan’s neck. An officer on the scene reported seeing sparks flying from Gay-tan’s chest, where Taser darts had lodged. His sister, Neomi Garcia, who lives in nearby Bartlett, can still recite the results from memory: “He had 48 marks on his back, six marks on his chest area, and he had four marks on his arm and two marks on his foot. They even tased him twice after he was unconscious.” Gaytan is not the only person who died in police restraint after officers used so-called electric control weapons in questionable ways, the American-Statesman found. The paper examined more than 280 incidents in which people died during or shortly after being taken into police custody in the past decade. Police used Tasers on 87 of those people.

In addition to instances in which police deployed their stun guns up to dozens of times on suspects, the newspaper’s review found fatal encounters in which officers used the weapons in ways contrary to professional guidelines. The weapon was used disproportionately on African-Americans, and experts acknowledge that many departments don’t train according to the Taser company’s recommendations.
Despite research that the devices overwhelmingly are used without lasting injury, the Statesman also identified eight instances in which a Texas medical examiner found the electrical shock directly contributed to a person’s in-custody death. Others died indirectly from the shock’s effects — including one man who caught fire.

And while Taser’s product warning notes that most research has studied only 15 seconds’ worth of shocks — three jolts — and advises police to “use the shortest duration of CEW exposure objectively reasonable to accomplish lawful objectives,” the paper identified 15 deaths in police custody when the weapon was used five or more times.

Several Texas cities have paid settlements to close Taser-related lawsuits, but the Statesman could find no instance of an officer criminally charged or disciplined for misuse of the weapon after a person died in police custody. One reason: Individual department “use-of-force continuum” policies that permit the deployment of stun guns with little provocation or threat.

In November 2008, police in Mexia, east of Waco, stopped Adren Turner for a suspected DWI violation. Turner told them he had taken some “bad (expletive)” and was having trouble breathing, documents show. When police ordered him to get out of the truck and lie on the ground, he complied but began crawling on his hands and knees.

“Turner continued to resist by crawling under the pick-up,” a Texas Ranger investigation later reported. After trying to handcuff him, officer Kevin Nickels twice shocked Turner, who was still on the ground.

“As Turner was being handcuffed, he told officers he could not breathe,” the Rangers report stated. “Officers ordered Turner not to resist.” He became motionless and was pronounced dead several hours later. An autopsy determined the cause to be toxic effects of cocaine.

The Ranger report noted Mexia’s use-of-force policy permitted officers to use their Tasers immediately after the failure of “light subject control.” So, the report said, “The utilization of the Taser in this situation appears to be in compliance with the Mexia Police Department Use of Force Policy.”

Warnings ignored

Tasers have been a controversial law enforcement tool since their initial release in the 1990s. Civil libertarians asserted the stun guns were more dangerous than proponents claimed and that officers were too quick to reach for them. Still, they have found wide acceptance among U.S. law enforcement agencies. In its latest annual report, the company estimated two-thirds of all patrol officers carry a stun gun.

Law enforcement officials say they have successfully used the weapons to defuse fraught confrontations thousands of times without lasting physical injuries. The electric guns, they add, have proved to be an essential tool that saves both officer and civilian lives.

“It’s also reducing injuries,” said Steve Tuttle, a spokesman for Scottsdale, Ariz.-based Taser International, the leading stun gun manufacturer. “We are simply trying to incapacitate someone for five seconds, and the results speak for themselves in terms of outcomes.”

In 2005, the Police Executive Research Forum, which advises local agencies on the adoption of policies, developed guidelines that Tasers be used only against people who are “actively resisting or exhibiting active aggression,” or to prevent suspects from harming themselves. It warned against Taser overuse.

“Law enforcement officers should use it for one standard cycle and stop to evaluate the situation,” the research forum advised. “If subsequent cycles are necessary, agency policy should restrict the number and duration of those cycles to the minimum activations necessary to place the subject in custody.”

A 2011 forum update added recommendations against using the weapons on sensitive parts of the body and on people exhibiting symptoms of certain medical conditions. “Personnel should be aware that there is a higher risk of sudden death in subjects under the influence of drugs and/or exhibiting symptoms associated with excited delirium,” it stated, using a controversial medical term that typically combines drugs and police restraint.
Research on the effects of electric shocks on the various groups is not definitive. A study of Texas in-custody deaths involving Taser shocks by former San Marcos police chief and current Texas State University lecturer Howard Williams found that while shocking people showing signs of excited delirium did result in a higher death rate, those shocked with cocaine in their systems or with a history of alcohol abuse, had lower fatality rates.

And police don’t always follow the research forum’s advice. More than two-thirds of the 87 people who were shocked and died in police custody had lethal doses of drugs in their systems, according to the paper’s analysis. The newspaper reported last month on the custodial death of Graham Dyer, in which Mesquite police appear to have deliberately shocked the 18-year-old in the testicles.

Still, the organization’s guidelines largely mirror Taser International’s own user manual, which cautions that “repeated, prolonged or continuous” shocks can be injurious; and that “elderly, those with heart conditions, asthma or other pulmonary conditions, and people suffering from excited delirium, profound agitation, severe exhaustion, drug intoxication or chronic drug abuse, and/ or over-exertion from physical struggle” could be harmed by the shocks. The company recommends police retrain on the weapon annually.

Training gaps common

The most substantial change the company has made to its policy was in 2009, soon after the death of Michael Jacobs, a mentally ill African-American man whom a Fort Worth police officer shocked in the chest for 49 consecutive seconds. The 24-year-old died from “sudden death during neuromuscular incapacitation due to application of a conducted energy device,” according to the Tarrant County medical examiner’s autopsy. Jacobs’ family settled with the city for a reported $2 million.

Taser advised police to avoid aiming directly at a suspect’s chest. “As a company, you have a duty to warn users as things come up,” Tuttle said.

Texas law enforcement officers haven’t always abided by the new guideline.

Police in Hempstead, in Waller County, encountered 22-year-old Terrell Houston in June 2010 when they were called to an apartment parking lot about suspected trespassing. After a chase, Houston “turned towards me in an aggressive manner,” officer Byron Fausset told investigators. “I then pointed my Taser at the chest area of Terrell and deployed the probes.”

When Houston failed to fall down, the officer cycled the Taser twice more in Houston’s chest, records show. By the time medics arrived, Houston’s breathing had stopped. Houston’s cause of death was listed as a combination of PCP intoxication, an enlarged heart and “restraint procedures.” A grand jury declined to indict Fausset.

Not all Texas police departments train their officers on Tasers yearly as recommended either. “Annual training is the gold standard, but it’s certainly not adhered to by the majority of agencies,” said Jerry Staton, a former Austin police officer who now instructs law enforcement departments statewide on Taser use. “I’ve seen agencies that give initial training, and 10 years later haven’t done any additional training.”

Gretchen Grigsby, governmental relations director for the Texas Commission on Law Enforcement, which licenses officers and tracks their training, said Texas enforces no standard for Taser training frequency. “We don’t mandate training,” she said. “The Legislature does.”

Taser officials say they work with law enforcement to train officers on proper use of their tools. But “how they use it is up to the individual agency,” Tuttle said. “We aren’t use-of-force experts.”

Dozens of shocks

Many in-custody deaths involve confrontations, so it’s not surprising Tasers are used often. Of the instances in which police used an electronic control weapon on a suspect who subsequently died, the number of times the person was shocked ranged from a single cycle to dozens.

Blacks make up 13 percent of the state’s population, account for 24 percent of arrests and represent just over a third of the in-custody fatalities reviewed by the newspaper. Yet half of all those who were shocked and later died were African-American.

A review of autopsies showed, in the vast majority of cases, Taser shocks were judged to be unrelated to the fatality. In some instances, however, the shock contributed to a suspect’s death indirectly.

Three people died from head injuries suffered while collapsing from incapacitation caused by the electric shock. A video of the March 2015 confrontation between Austin police and James Sizer shows him falling heavily after being stunned with a Taser. Sizer died eight days later of his head injuries; the Travis County medical examiner labeled the death a homicide.

In Tom Green County, San Angelo police responding to a disturbance call arrived to find that 47-year-old Juan Flores Lopez, distraught over a breakup, had doused his house and himself with gasoline. During the encounter, one of the officers deployed his Taser, “which is believed to have ignited the gasoline,” his autopsy report stated. Lopez’s death from “thermal burns and inhalation injury” was labeled an accident.

Texas’ Taser-related fatalities
Taser International has long resisted claims its products can make a person’s heart stop working. It has sued researchers and medical examiners for concluding the devices were deadly. The company has also funded studies concluding the devices were safe (although a 2011 analysis found research funded by Taser International was more likely to conclude its devices were safe than studies with no financial connection to the company).

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A 2011 Justice Department study found that, while safe more than 99 percent of the time, electric control weapons could cause serious injury or death — particularly “with continuous or repeated shocks.” The next year, the American Heart Association reported that in certain circumstances Taser shocks can cause heart attacks. Research “clearly support(s) the conclusion” a Taser can initiate a heart attack, that study’s author, Douglas Zipes, a cardiologist and Indiana University School of Medicine professor, wrote in a 2014 follow-up report.

Texas medical examiners have determined the deaths of eight suspects in police custody during the past decade were caused at least in part by a Taser shock. The most recent occurred last May, when Ernesto Carraman died from “atherosclerotic cardiovascular disease with cocaine intoxication and struggle and use of electromuscular disruption device” after being shocked by San Antonio police during a struggle.

Yet experts say a Taser-related fatality isn’t always a clear call. Some medical examiners omitted mention of the weapon’s role even when it seemed potentially relevant.

When Micah Key resisted handcuffing and appeared aggressive in a June 2013 confrontation, San Angelo officer Noel Anderson fired his Taser into Key’s chest. According to a Texas Ranger report, the 24-year-old African-American lunged forward onto Anderson, pinning the Taser between them with the officer’s finger stuck pulling the trigger. The electric buzzing “sounded like it lasted forever,” a witness told the Ranger.

Records downloaded from the weapon showed Key sustained two shocks in his chest lasting a full half-minute and went limp. According to the Ranger report, a Lubbock County medical examiner found Key’s death was due to high blood pressure, an enlarged heart, the altercation with police and “the prolonged deployment of the Taser.”

In the official custodial death form, however, mention of the Taser is omitted. Tom Green County Justice of the Peace No. 2 J.P. McGuire concluded Key’s death was “natural.”

‘What was he going to do?’

According to the Texas Rangers’ report of Gay-tan’s death in custody, he was compliant until he was placed in a Rockdale jail cell with another man and immediately attacked him. Police estimated they shocked Gaytan a half-dozen times during the altercation, but Rockdale police station cameras failed to record the incident.

When Rockdale officers decided to take Gay-tan to the nearby Milam County Jail in handcuffs and leg restraints, an officer said he had to shock Gaytan’s feet to get him into the cruiser. Another shocked his arms “because he was resisting the officers’ hold.” Police said they shocked him additional times to put on a “straight jacket.” An inmate reported Gay-tan was shocked twice on the neck.

Jail officers estimated they had shocked Gay-tan in the back somewhere between three and 10 times. The printouts from the weapons, however, showed more than 30 shocks.

A decade later, Neomi Garcia said the image of her brother’s final moments on the jail floor still haunts her. “He was already tied and bound,” she said. “What was he going to do? But they kept on tasering and tasering and tasering him.”

According to autopsy results described in the Ranger report, Gay-tan died from “combined effects of restraint asphyxia, heart disease and methamphetamine toxicity” — a homicide, the medical examiner concluded. His sister is skeptical the four dozen electrical shocks he received didn’t contribute to his death.

“He had physical problems, health problems,” Garcia said. “But nobody can tell me he died of that.”

Two years after Gaytan’s death, she said, the Rockdale Police Department paid his mother a $60,000 settlement. Her brother, Juan Gaytan, said the family accepted the nominal amount out of concern for their mother’s health. “Of course we didn’t tell her how many times he was tased,” he said.

Records show that Feb. 8, 2007, Gaytan’s case was presented to a Milam County grand jury, which declined to indict any of the police. According to the Ranger report, “Grand Jurors commended the officers for professionalism.”

Data editor Christian McDonald contributed to this story.
